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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,483	10/17/2003	Fabrice Billarant	CAC.P0033	2195

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

MAIL DATE	DELIVERY MODE
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05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,483

Applicant(s)

BILLARANT, FABRICE

Examiner

RUTH C. RODRIGUEZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB06)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 04 May 2009 has been entered.

2. The indicated allowability of claims 1-8, 15, 17 and 18 is withdrawn in view of the newly discovered reference(s) to International Patent Application WO 01/37694 A1 (WO '694). Rejections based on the newly cited reference(s) follow.

Election/Restrictions

3. Claims 9-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention II, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on July 2005. 2. Applicant's election of Invention I in the reply filed on July 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the

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restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-8, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over International Patent Application WO 01/37694 A1 (WO '694) in view of Fleuchaus et al. (US 6,842,950 B2).

International Patent Application WO 01/37694 A1 (WO '694) discloses an article (10) over which a molding is to be made by pouring foam on the article while the article is placed on top of a cavity (defined in 24) delimited by vertical walls having a top surface (top surface of 24). The article comprises an element having a central strip region and left and right ledge regions (22). The element has a top surface and a bottom surface, fasteners (12) extending from the central strip region of the bottom surface and the element includes a material and a thickness (Figs. 1 and 2). A magnetically attractable material is fixed on the bottom surface of the element (Figs. 1 and 2). The bottom surfaces of the ledge regions being in contact with the top surfaces of the vertical walls to provide surface to surface contact between the ledge regions and the vertical walls during the entire foam pour when the article is placed on top of the

cavity, with the fasteners inside the walls and facing the cavity (Fig. 1). The central strip region of the bottom surface, from which the fasteners are extending, except for the fasteners, is the lowest part of the article (Fig. 1). The central strip region is flat in a transversal direction of the article and has a width measured in the transversal direction (Fig. 1). The right and left ledge regions have respective left and right portions extending parallel to the central flat strip region when said article is placed on top of a cavity and foam is being poured on it (Fig. 1). The right and left portions having respective left and right widths in the transversal direction (Fig. 1). WO '694 fails to disclose that the article has hooks as the fasteners, a magnetically attractable material is fixed to the top surface of the element, the fastener strip has a width of less than 10 mm and that the sum of said left and right portion widths is larger than the width of the central strip region where the left and right widths of the left and right portion prevent foam from entering the cavity. However, Fleuchaus teaches an article over which a molding is to be made by pouring foam on it while it is place on top of a cavity (between walls 24) delimited by vertical walls (24) having a top surfaces (Fig. 2). The article comprises a base (52) having a central strip region a having a top surface and a bottom surface. Hooks (56) are extending from the central strip region of the bottom surface of the base and metallic material (60) is fixed on the bottom surface of the base (Figs. 5-7). The base is flat in shape (Figs. 1-3). The hooks serve to secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding (C. 3, L. 51-56). The metallic material is attracted to a magnetic strip (38) extending along the bottom surface of the cavity and the magnetic attraction of the metallic material and

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the magnetic strip holds the article in place as the foam pad is molded and cured (C. 4, L. 12-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have hooks as the fasteners and the metallic material being fixed on the top of the base as taught by Fleuchaus in the article disclosed by WO '694. Since the hooks secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding and the metallic material is attracted to a magnetic strip located in the bottom of the cavity to hold the article in place as the foam pad is molded and cured. Although WO '694 fails to disclose any dimensions for the width of the fastener strip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the fastener strip having a width of less than 10 mm since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Regarding to the sum of the left and right portion widths being larger than the width of the central strip region, it would have been obvious to one having ordinary skill in art at the time the invention was made that the sum of said left and right portion widths is larger than the width of the central strip region since a change in the size of a prior art device is a design consideration within the skill of the art. Increasing the size of the left and right portion width promote a better bond between the fastener since the bonding area provided along the edges of the article is increased or the one row of fastener could be eliminated and the sum of the left and right portion widths is increased as a result of this change. Especially since the fastener strip disclosed by WO '694 and modified by Fleuchaus meets the rest of the claim limitations.

Fleuchaus also teaches that the hooks are made in the form of longitudinal rows (Figs. 5-7). The hooks have a Christmas tree shape (Figs. 5-7).

The longitudinal strip (3) disclosed by WO '694 comprises hooks stops at a distance from the longitudinal ends of the base. WO '694 fails to disclose that discloses that the longitudinal end regions thus being formed without hooks over a distance less than 15 mm, to enable the base to be placed at the level of its longitudinal ends directly on the top edges of the walls forming the cavity when the width of the fastener is between 7 and 8 mm and such a width is compared to the longitudinal end of the base, that the base is of polyamide 6 and has a thickness of between 0.2 mm and 0.4 mm or the base has a thickness of 0.15 to 0.35 mm and is of polyamide 6-6. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base being made of polyamide 6, that the longitudinal end regions thus being formed without hooks over a distance less than 15 mm, to enable the base to be placed at the level of its longitudinal ends directly on the top edges of the walls forming the cavity when the width of the fastener is between 7 and 8 mm and that the base has a thickness of between 0.2 mm and 0.4 mm or the base having a thickness of 0.15 to 0.35 mm and being made of polyamide 6-6 in the article disclosed by WO '694 and modified with the teaching of Fleuchaus since the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960) and a change in the size of a prior art device is a design consideration within the skill of the art. The use of polyamide 6 or polyamide 6-6 for the base of the

article is well known in the molding art. Regarding to the thickness, Hattori discloses that the mold of the fastener is used while the material is being poured and therefore it provides additional strength to the fastener strip.

The metallic material taught by Fleuchaus is embodied in the form of a metallic resin rib fixed by gluing to the top surface of the base the metallic resin rib including two longitudinal reinforcements on either side of the resin-base interface to provide good anchoring of the foam (Figs. 5-7).

Fleuchaus fails to teach that the resin rib comprises at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the resin rib comprising at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter in the article disclosed by WO '694 and modified with the teaching of Fleuchaus since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

WO '694 discloses a moulded object (14) of foam to which one or more articles for moulding is fixed by hardening of the foam on the top surface of the base after the form has been poured in a mold (molded over mold 26).

WO '694 discloses that a mold including a base. The base includes a cavity having walls projecting from the base and the top edges of which being adapted to receive an article for molding over (Figs. 6a-6c). The article is fixed to a molded object

by solidification of a foam that is poured there over (Figs. 6a-6c). WO '694 fails to disclose that the cavity has two side walls, spaced apart by a distance between 4.5 and 12 mm. However in accordance with the rejection above, if the width of the fastener is between 7 and 8 mm, then the cavity should have two side walls, spaced apart by a distance between 4.5 and 12 mm.

WO '694 discloses an article (10) over which a molding (poured over mold 26) is to be made by pouring foam on the article while the article is placed on top of a cavity (defined by 24) delimited by vertical walls. Each vertical wall has a top surface (coming into contact with 22). The article comprises an element having a central strip region and left and right ledge regions (22). The element has a top surface and a bottom surface, fasteners (12) extending from the central strip region of the bottom surface and the element includes a material and a thickness (Fig. 1). A magnetically attractable material is fixed on the bottom surface of the element (Figs. 1 and 2). The bottom surfaces of the ledge regions are in contact with the top surfaces of the vertical walls to provide surface to surface contact between the ledge regions and the vertical walls during the entire foam pour when the article is placed on top of the cavity, with the fasteners inside the walls and facing the cavity (Fig. 1). The central strip region of the bottom surface, from which the fasteners are extending, except for the fasteners, is the lowest part of the article (Fig. 1). Hattori fails to disclose that the article has hooks as the fasteners, a magnetically attractable material is fixed to the element, the fastener strip has a width of less than 10 mm and that the sum of said left and right portion widths is larger than the width of the central strip region. However, Fleuchaus teaches an article over which a

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molding is to be made by pouring foam on it while it is placed on top of a cavity (between walls 24) delimited by vertical walls (24) having a top surface (Fig. 2). The article comprises a base (52) having a central strip region having a top surface and a bottom surface. Hooks (56) are extending from the central strip region of the bottom surface of the base and metallic material (60) is fixed on the bottom surface of the base (Figs. 5-7). The base is flat in shape (Figs. 1-3). The hooks serve to secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding (C. 3, L. 51-56). The metallic material is attracted to a magnetic strip (38) extending along the bottom surface of the cavity and the magnetic attraction of the metallic material and the magnetic strip holds the article in place as the foam pad is molded and cured (C. 4, L. 12-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have hooks as the fasteners and the metallic material being fixed on the top of the base as taught by Fleuchaus in the article disclosed by WO '694. Since the hooks secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding and the metallic material is attracted to a magnetic strip located in the bottom of the cavity to hold the article in place as the foam pad is molded and cured. Although WO '694 fails to disclose any dimensions for the width of the fastener strip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the fastener strip having a width of less than 10 mm since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Regarding to the sum of said left and right portion widths is

larger than the width of the central strip region, it would have been obvious to one having ordinary skill in art at the time the invention was made that the sum of said left and right portion widths is larger than the width of the central strip region when one row of fastener since a change in the size of a prior art device is a design consideration within the skill of the art. Increasing the size of the left and right portion width promote a better bond between the fastener since the bonding area provided along the edges of the article is increased or the one row of fastener could be eliminated and the sum of the left and right portion widths is increased as a result of this change. Especially since the fastener strip disclosed by WO '694 and modified by Fleuchaus meets the rest of the claim limitations.

In accordance with the rejection above, if the width of the fastener is between 7 and 8 mm, then the hook strip should have a width between approximately 3 and 10 mm.

WO '694 discloses that the element is flat in shape (Figs. 6a-6c).

Fleuchaus teaches that the magnetically attractable material is fixed on the top surface of the element (Figs. 5-7).

WO '694 discloses an article (10) over which a molding is to be made by pouring foam on the article while the article is placed on top of a cavity (defined by 24) delimited by vertical walls (Fig. 1). Each of the vertical walls has a top surface (coming into contact with 22). The article comprises an element having a central strip region and left and right ledge regions (22). The element has a top surface and a bottom surface, fasteners (12) extending from the central strip region of the bottom surface and the element includes a material and a thickness (Figs. 1 and 2). A magnetically attractable

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material is fixed on the bottom surface of the element (Figs. 1 and 2). The bottom surfaces of the ledge regions are in contact with the top surfaces of the vertical walls during the entire foam pour when the article is placed on top of the cavity with the fasteners inside the walls and facing the cavity (Fig. 1). The central strip region of the bottom surface, from which the fasteners are extending, except for the fasteners, is the lowest part of the article (Fig. 1). WO '694 fails to disclose that the article has hooks as the fasteners, a magnetically attractable material is fixed to the element, the fastener strip has a width of less than 10 mm and that the sum of said left and right portion widths is larger than the width of the central strip region. However, Fleuchaus teaches an article over which a molding is to be made by pouring foam on it while it is placed on top of a cavity (between walls 24) delimited by vertical walls (24) having a top surfaces (Fig. 2). The article comprises a base (52) having a central strip region having a top surface and a bottom surface. Hooks (56) are extending from the central strip region of the bottom surface of the base and metallic material (60) is fixed on the bottom surface of the base (Figs. 5-7). The base is flat in shape (Figs. 1-3). The hooks serve to secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding (C. 3, L. 51-56). The metallic material is attracted to a magnetic strip (38) extending along the bottom surface of the cavity and the magnetic attraction of the metallic material and the magnetic strip holds the article in place as the foam pad is molded and cured (C. 4, L. 12-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have hooks as the fasteners and the metallic material being fixed on the top of the base as taught by

Fleuchaus in the article disclosed by WO '694. Since the hooks secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding and the metallic material is attracted to a magnetic strip located in the bottom of the cavity to hold the article in place as the foam pad is molded and cured. Although Hattori fails to disclose any dimensions for the width of the fastener strip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the fastener strip having a width of less than 10 mm since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Regarding to the sum of said left and right portion widths is larger than the width of the central strip region, it would have been obvious to one having ordinary skill in art at the time the invention was made that the sum of said left and right portion widths is larger than the width of the central strip region when one row of fastener since a change in the size of a prior art device is a design consideration within the skill of the art. Increasing the size of the left and right portion width promote a better bond between the fastener since the bonding area provided along the edges of the article is increased or the one row of fastener could be eliminated and the sum of the left and right portion widths is increased as a result of this change. Especially since the fastener strip disclosed by WO '694 and modified by Fleuchaus meets the rest of the claim limitations.

WO '694 discloses an article (10) over which a molding is to be made by pouring foam on the article while the article is placed on top of a cavity (defined by 24) delimited by vertical walls (Fig. 1). Each of the vertical walls has a top surface (contacting

members 22). The article comprises an element having a central strip region and left and right ledge regions (22). The element has a top surface and a bottom surface, fasteners (12) extending from the central strip region of the bottom surface (Figs. 1 and 2). The central strip region of the bottom surface, from which the fasteners are extending, except for the fasteners, is the lowest part of the article (Fig.1). A magnetically attractable material is fixed on the bottom surface of the element (Figs. 1 and 2). The article is in such a material and having a thickness that the bottom surfaces of the ledge regions being in contact with the top surfaces of the vertical walls during the entire foam pour when the article is placed on top of the cavity, with the hooks inside the walls and facing the cavity (Figs. 6a-6c). WO '694 fails to disclose that the article has hooks as the fasteners, a magnetically attractable material is fixed to the element, the fastener strip has a width of less than 10 mm and that the sum of said left and right portion widths is larger than the width of the central strip region. However, Fleuchaus teaches an article over which a molding is to be made by pouring foam on it while it is place on top of a cavity (between walls 24) delimited by vertical walls (24) having a top surfaces (Fig. 2). The article comprises a base (52) having a central strip region a having a top surface and a bottom surface. Hooks (56) are extending from the central strip region of the bottom surface of the base and metallic material (60) is fixed on the bottom surface of the base (Figs. 5-7). The base is flat in shape (Figs. 1-3). The hooks serve to secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding (C. 3, L. 51-56). The metallic material is attracted to a magnetic strip (38) extending along the bottom surface of the cavity and

the magnetic attraction of the metallic material and the magnetic strip holds the article in place as the foam pad is molded and cured (C. 4, L. 12-23). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have hooks as the fasteners and the metallic material being fixed on the top of the base as taught by Fleuchaus in the article disclosed by WO '694. Since the hooks secure a trim cover to the molding during normal wear-and-tear of a motor vehicle seat that uses the molding and the metallic material is attracted to a magnetic strip located in the bottom of the cavity to hold the article in place as the foam pad is molded and cured. Although WO '694 fails to disclose any dimensions for the width of the fastener strip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the fastener strip having a width of less than 10 mm since a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Regarding to the sum of said left and right portion widths is larger than the width of the central strip region, it would have been obvious to one having ordinary skill in art at the time the invention was made that the sum of said left and right portion widths is larger than the width of the central strip region when one row of fastener since a change in the size of a prior art device is a design consideration within the skill of the art. Increasing the size of the left and right portion width promote a better bond between the fastener since the bonding area provided along the edges of the article is increased or the one row of fastener could be eliminated and the sum of the left and right portion widths is increased as a result of this

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change. Especially since the fastener strip disclosed by WO '694 and modified by Fleuchaus meets the rest of the claim limitations.

Response to Arguments

6. Applicant's arguments with respect to claims 1-8, 15, 17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RUTH C. RODRIGUEZ whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
May 27, 2009

/Robert J. Sandy/
Primary Examiner, Art Unit 3677